IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.458 OF 2002.

WITH

CIVIL APPLICATION NO.669 OF 2002

Shri Ravindra S/o Harilal Mehta : Appellant.

versus

General Manager, Maharashtra State

Road Transport & ors. : Respondents.

ALONG WITH

FIRST APPEAL NO.459 OF 2002.

WITH

CIVIL APPLICATION NO.668 OF 2002

Smt.Sunanda W/o Ravindra Mehta : Appellant.

versus

General Manager, Maharashtra State

Road Transport & ors. : Respondents.

Mr.M.B.Kotak for the appellants

Mr.G.S.Hegde for Respondent No.1.

Mr.D.R.Mahadik i/by S.R.Singh for Respondent No.3

CORAM : D.G.DESHPANDE,J.

DATED : 15th March 2005.

ORAL ORDER

1. So far Civil Applications are concerned, they are for restoration of the appeals which have been dismissed in default by my order dated 07/02/2005. Looking to the explanation given, the civil applications are allowed. Both the appeals are restored to file and, by consent, taken up for final hearing.

2. Heard Mr.Kotak for the appellants in both the appeals. Both the appeals filed by the original claimants and, the only question that is involved is not granting interest by the tribunal from the date of filing of the application for compensation. In the impugned order the interest is granted from 1.1.1997. The claim petition came to be filed on 31.1.1991. Mr.Kotak, appearing for the appellants, contended that firstly grant of interest is not discretionary on the basis of the judgment of the Supreme Court

reported in **2002 ACJ 338 (Devi Dayual Kansal v. Raj Roop).** He also relied upon the judgment of this Court reported in **1993 ACJ 242 (Panjikaran Paulose Joseph & ors. v. Kusum Vithal Patil & ors.)** wherein it is laid down that compensation having not been paid when the mishaps took place, warrants the liability to pay interest upon those who have had the use of money which ultimately belonged to the claimants. However, the question involved in this case is, whether the appellants are entitled to interest from the date of the application i.e. from 31.1.1991. Roznama clearly shows that from the date of application till 13.12.1993 i.e. for full three years no steps were taken by the claimants to serve the respondents. All those intervening roznama clearly proves this aspect. Then for the first time the respondents came to be served on 19.5.1995. Mr.Hegde fairly conceded that at the most interest could be awarded from 19.7.1995.

3. It is true that if the claimants succeeded, they must get interest. However, if the Court found that the claimants were negligent and responsible for prolonging the matter, then discretion not to grant interest was properly

exercised. But in view of the concession made by Mr.Hegde the order requires modification. Hence the order :-

:ORDER:

Both the appeals are partly allowed.

The respondents to pay interest at the rate awarded by the tribunal from 19.7.1995.

No order as to costs.

[D.G.DESHPANDE]

15/03/2005 JUDGE.